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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,325	06/16/2006	Antonio Reyes Ruiz	2585-0124PUS1	3236
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EXAMINER HUJAZ, OMAR F				
ART UNIT 3633		PAPER NUMBER		
NOTIFICATION DATE 01/27/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

### Office Action Summary

**Application No.**

10/583,325

**Applicant(s)**

RUIZ, ANTONIO REYES

**Examiner**

OMAR HIJAZ

**Art Unit**

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-15 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The Amendment filed on October 9, 2008 has been entered. No claims have been amended, and claims 7-15 have been added. Therefore, claims 1-15 are now pending in the application.

#### ***Claim Objections***

1. Claims 1-6 are objected to because of the following informalities:

In claims 1-3, at lines 2 and 5, line 2, and line 3 respectively, the recitation "C" contains unnecessary quotation marks.

In claim 1, at line 2, the recitations "C-shaped element" is later referred to by the recitation "C-shaped structural element". In addition, in line 2, the recitation "its faces" lacks antecedent basis. In addition, in line 4, the recitation "the metallic strips" lacks antecedent basis.

In claim 2, at line 4, the recitation "the parallel edges" lacks antecedent basis. In addition, the recitation "C-shaped structural profile" lacks antecedent basis.

In claim 3, at line 3, the recitation "the angular cavities" should be replaced with "the rectangular cavities". In addition, the recitation "C-shaped first element" lacks antecedent basis. In addition, at line 4, the recitation "one of the rods" lacks antecedent basis.

In claims 4-6, at line 3, line 2, and line 2, the recitation "once assembled, once integrated" is unclear. In addition, at lines 3 of claims 4-6, the recitation "the slab or wall" lacks antecedent basis. In addition, the recitation "which, in turn, can function" is jumbled and unclear.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 7-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As per claim 7, the following claim language presents new matter with regard to the original specification. The specification discloses a single C-shaped stud member but does not disclose "a plurality of laterally spaced vertically extending stud members" as recited in lines 1-2. In addition, the specification does not disclose an "upper" and "lower track member" as recited in lines 3-4 and 7-9. In addition, the specification discloses a strip, which is passed through the holes in the stud member, but does not disclose that the strip has a "truncated U-shape", with "a rectangular front wall", as recited in lines 10-12. In addition, the specification does not disclose "the longitudinal spacing between said inner folds at said inner ends in an unassembled form being greater than said longitudinal length of said holes whereby side walls deflect upon insertion into said holes and in assembly compressively engage said outer flanges at longitudinal end surfaces of said holes" as per lines 14-17.

As per claim 8, the following claim language presents new matter with regard to the original specification. The specification discloses a single C-shaped stud member but does not disclose "a plurality of laterally spaced vertically extending stud members" as recited in lines 1-2. In addition, the specification does not disclose an "upper" and "lower track member" as recited in lines 2-4. In addition, the specification discloses a strip, which is passed through the holes in the stud member, but does not disclose that the strip has "a transverse rectangular front wall", as recited in line 11. In addition, the specification does not disclose "the longitudinal spacing between said inner ends prior to assembly being greater than the length of said holes whereby side walls deflect upon insertion into said holes and in assembly compressively engage said outer flanges at longitudinal end surfaces of said holes" as per lines 12-15.

As per claim 10, the following claim language presents new matter with regard to the original specification. The specification does not disclose "detent means operatively engaging said outer flanges with said side walls of said bracket sections to maintain said clip strips in assembled condition on said outer flanges" as recited in lines 1-3.

As per claim 12, the following claim language presents new matter with regard to the original specification. The specification discloses a strip with triangular folds, but does not disclose "a generally truncated inverted U-shape and said side walls have an included angle with said connecting sections in unassembled form in the range of about 90° to 135°" as recited in lines 1-3.

As per claim 13, the following claim language presents new matter with regard to the original specification. The specification does not disclose "said included angle in said unassembled form is in the range of about 100° to 130°" as recited in lines 1-2.

As per claim 14, the following claim language presents new matter with regard to the original specification. The specification does not disclose "said included angle between said side walls and said connecting sections in unassembled form is about 10° or greater than the included angle therebetween in assembled form" as recited in lines 1-3.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruiz et al (U.S. Patent No. 5,414,972).

As per claim 1, Ruiz et al teaches a structural element for the construction of buildings (structural member for building constructions; title) comprising a C-shaped element (structural member 14, such as a standard C-shaped stud; col. 5, lines 36-37; figure 5) with equidistant cavities on at least one side of its faces (structural member 14 has a plurality of elongated, spaced slots 62; col. 8, lines 46-47; figure 5) and a second element in the shape of a continuous strip (a reinforcing member 16; col. 5, line 34; figure 5) with equidistant angular folds (the reinforcing member 16 has a plurality of

longitudinally spaced projections 18; col. 8, lines 18-19; figure 5), whereby once both structural elements are assembled to each other, the angular folds of the metallic strip are projected through the cavities of the C-shaped structural element (slots 62 are designed to receive the projections 18 of the reinforcing member 16, such that the projections 18 pass through the slots 62 and extend outwardly beyond the upper edge flange 22; col. 8, lines 47-51; figure 6).

As per claim 2, Ruiz et al teaches the cavities in the C-shaped structural element are of rectangular configuration (as depicted, the slots 62 are generally rectangular; figure 5) and in such a manner that depends on the length of the structural element (it is construed that the slots shall continue throughout the entire length required by the structure; as evidence by figure 1), placed in parallel edges of the C-shaped structure (upper edge flange 22 of the structural member 14 has a plurality of elongated spaced slots; col. 8, lines 46-47; figure 5) .

As per claims 4 and 5, Ruiz et al teaches the structural element, once assembled and integrated becomes part of a slab or wall and can function as a beam or column of the construction (the structural member can be a standard stud or joist, or any other structural member designed for connection to a building panel such as a track, a structural steel I-beam or the like; col. 3, lines 19-23).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz et al in view of Fordyce (U.S. Patent No. 555,084).

As per claim 3, Ruiz et al teaches the angular folds in the second structural element that are projected through the rectangular cavities of the C-shaped first element, comprise matching members through which one of the rods that makes up the structure of a wall or slab to be erected, is inserted (each projection 18 is designed to receive a tubular rod 56 which is retained in a position spaced from the upper edge flange 22 of the structural member 14 by a pair of inwardly projecting tabs 60; col. 8, lines 34-38; figure 6).

Ruiz et al fails to disclose the perforations receiving the rod.

Fordyce discloses a framework for wall forming (col. 1, lines 13-16) with a stud member A which attaches to an angular strip with apertures a', in which rod C is inserted (figure 6).

Therefore from the teaching of Fordyce, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the reinforcing member with the tubular rod retaining means of Ruiz et al with the apertures as taught by Fordyce to further secure the rod in place (col. 2, lines 76-77).

As per claim 6, Ruiz et al teaches the structural element, once assembled and integrated becomes part of a slab or wall and can function as a beam or column of the construction (the structural member can be a standard stud or joist, or any other



structural member designed for connection to a building panel such as a track, a structural steel I-beam or the like; col. 3, lines 19-23).

***Response to Arguments***

8. Applicant's arguments filed on October 9, 2008 have been fully considered but they are not persuasive. There can be no interference until the claims are in condition for allowance (see MPEP section 2300). In this case the rejection from the first office action on August 5, 2008 still stands.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,885,884; Building Panel Assembly; discloses C-shaped web members with a similar configuration to the application. U.S. Patent No. 6,837,013; Lightweight Precast Concrete Wall Panel System; discloses similar wall panel studs with reinforcing members.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR HIJAZ whose telephone number is (571)270-5790. The examiner can normally be reached on Mon-Fri 9:30 a.m. - 7:00 p.m. (alternating Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571)272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OFH

/Brian E. Glessner/

Supervisory Patent Examiner, Art Unit 3633